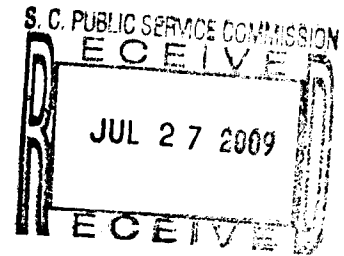


July 24, 2009



Mr. Charles Terreni, Chief Clerk and Administrator  
Public Service Commission of South Carolina,  
101 Executive Center Dr., Suite 100  
Columbia, SC 29210



**NRC Violation on SCE&G Nuclear Project; Concerning Docket 2009-293-E**

Dear Mr. Terreni,

I am writing to you on behalf of Friends of the Earth, which maintains an on-going interest in the matter of oversight of the S.C. Public Service Commission of the costly and risky nuclear reactor project by South Carolina Electric & Gas (SCE&G).

We take note that SCE&G has filed a document with the PSC requesting revisions to the construction schedule for the reactors. I will be reviewing the SCE&G filing and may well intervene in the docket (2009-293-E) once a schedule has been established by the PSC.

For posting in the docket, I request that the attached items be posted in docket 2009-293-E on the PSC website:

1. Text of cover letter from the **Nuclear Regulatory Commission and Notice of Violation to SCE&G** dated July 15, 2009, for violation of conditions of the Quality Assurance Program during nuclear reactor construction program – from the NRC's digital library (ADAMS). [SCE&G has 30 days from the date of the violation to respond to the NRC.] 4 pages
2. **Nuclear opponents, SCE&G debate costs**, The State, July 16, 2009, 1 page
3. **SCANA feels rating bite on nuclear plant**, Charlotte Business Journal, July 15, 2009, 2 p.
4. **Fitch Downgrades SCANA & Subsidiaries**, Business Wire, June 25, 2009, 2 pages
5. Cover page of Moody's report **New Nuclear Generation: Ratings Pressure Increasing**, June 2009, 1 page

It is important to maintain these items as part of the public record as the nuclear project goes forward and they may well be formally discussed during any hearing on schedule changes.

Respectfully Submitted –

A handwritten signature in cursive script, reading "Tom Clements".

Tom Clements

1112 Florence Street • Columbia, SC 29201  
803.834.3084 phone & fax • tomclements329@cs.com • www.foe.org

July 15, 2009

Mr. Alfred M. Paglia  
Manager, Nuclear Licensing  
MC P40  
South Carolina Electric & Gas Company  
PO Box 88  
Jenkinsville, SC 29065

SUBJECT: NRC INSPECTION REPORT NOS. 05200027/2009-201 AND  
05200028/2009-201 AND NOTICE OF VIOLATION

Dear Mr. Paglia:

From June 1, 2009, through June 4, 2009, the U.S. Nuclear Regulatory Commission (NRC) conducted an inspection at the Virgil C. Summer Nuclear Station (VCSNS), Units 2 and 3, construction site in Jenkinsville, SC. The enclosed report presents the results of this inspection.

The purpose of the NRC inspection was to verify that quality assurance (QA) processes and procedures applied to activities related to the VCSNS Units 2 and 3 combined license application (COLA) were effectively implemented. The inspection focused on assessing compliance with the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 21, "Reporting of Defects and Noncompliance," and selected portions of Appendix B, "Quality Assurance Program Criteria for Nuclear Power Plants and Fuel Processing Plants," to 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities." This NRC inspection report does not constitute NRC endorsement of your overall QA or 10 CFR Part 21 programs.

Based on the results of this inspection, the NRC has determined that one Severity Level IV violation of NRC requirements occurred. The NRC evaluated this violation in accordance with the agency's Enforcement Policy, which is available on the NRC's Web site at [http://www.nrc.gov/about\\_nrc/regulatory/enforcement/enforce\\_pol.html](http://www.nrc.gov/about_nrc/regulatory/enforcement/enforce_pol.html).

The enclosed Notice of Violation (Notice) cites the violation, and the subject inspection report describes in detail the circumstances surrounding it. The Notice cites the violation because a review of the South Carolina Electric & Gas (SCE&G) Company Quality Assurance Program, as it pertains to activities related to the VCSNS Units 2 and 3 COL application, found that certain program policies and implementation procedures were not in compliance with the applicable requirements of Appendix B to 10 CFR Part 50.

SCE&G is required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing its response. The NRC will use this response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390, "Public Inspections, Exemptions, Requests for Withholding," of the NRC's "Rules of Practice," the NRC will make a copy of this letter, its enclosures, and the SCE&G response available electronically for public inspection in the NRC Public Document

Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), which is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy that deletes such information. If you request that such material be withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide, in detail, the bases for your claim (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If Safeguards Information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21, "Protection of Safeguards Information: Performance Requirements."

Sincerely,

Juan Peralta, Chief  
Quality and Vendor Branch 1  
Division of Construction Inspection  
& Operational Programs  
Office of New Reactors

Docket Nos.: 05200027 and 05200028

Enclosures:

1. Notice of Violation
2. Inspection Report Nos. 05200027/2009-201 and 05200028/2009-201 and Attachments

## NOTICE OF VIOLATION

South Carolina Electric & Gas Company  
Virgil C. Summer Nuclear Station, Units 2 and 3  
Jenkinsville, SC 29065

Docket Nos.: 05200027 and 05200028  
Report No.: 2009-201

During an U.S. Nuclear Regulatory Commission (NRC) inspection conducted at the South Carolina Electric & Gas Company (SCE&G), in Jenkinsville, SC, on June 1–4, 2009, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is described below:

Title 10 of the *Code of Federal Regulations* (10 CFR) 52.79(a)(25) states, in part, that a description of the quality assurance (QA) program applied to the design, and to be applied to the fabrication, construction, and testing, of the structures, systems, and components of the facility, shall be provided as part of the final safety analysis report that describes the facility. In 10 CFR 52.79(a)(25), the NRC also requires that “[t]he description of the quality assurance program for a nuclear power plant must include a discussion of how the applicable requirements of Appendix B to 10 CFR part 50 have been and will be satisfied, including a discussion of how the quality assurance program will be implemented.”

Criterion II, “Quality Assurance Program,” of Appendix B, “Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants,” to 10 CFR Part 50, “Domestic Licensing of Production and Utilization Facilities,” states that the QA program “shall be documented by written policies, procedures, or instructions and shall be carried out throughout plant life in accordance with those policies, procedures, or instructions.”

In a letter dated February 2, 2009, SCE&G proposed to revise Section 17.1 of the Final Safety Analysis Report for VCSNS Units 2 and 3, Revision 0, to state the following:

SCE&G maintains oversight under its existing 10 CFR Part 50, Appendix B program, as described in SCE&G “New Nuclear Deployment Quality Assurance Plan” (Reference 204) and V.C. Summer Nuclear Station Unit 1 “Operational Quality Assurance Plan” (Reference 206). These plans provide QA guidance meeting the requirements of 10 CFR Part 50 Appendix B and oversight of safety-related site characterization activities and COL application content providers.

Section 1.1.5 of the Operational Quality Assurance Plan (QAP) for VCSNS Unit 1 states, in part, that the Operational QAP is written to conform to the applicable requirements of Appendix B to 10 CFR Part 50; Regulatory Guide 1.33, “Quality Assurance Program Requirements (Operation),” Revision 4; American National Standards Institute (ANSI) N18.7-1976; and Section 6 of the VCSNS Technical Specifications. Standards, such as ANSI N45.2, “Quality Assurance Program Requirements for Nuclear Power Plants,” and the ANSI N18 series of operating standards, are relied on in the Operational QAP.

Contrary to the above, as of June 4, 2009, SCE&G New Nuclear Deployment (NND) implemented 12 NND procedures and guidelines that rely on American Society of

Enclosure 1

Mechanical Engineers NQA-1, "Quality Assurance Program Requirements for Nuclear Facilities," to describe how the quality assurance requirements in Appendix B to 10 CFR Part 50 are being satisfied rather than on ANSI N45.2, as described in the NRC-accepted QAP for VCSNS Unit 1.

This issue has been identified as Violations 05200027/2009-201-01 and 05200028/2009-201-01.

This is a Severity Level IV violation (Supplement II).

Pursuant to the provisions of 10 CFR 2.201, "Notice of Violation," SCE&G is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Chief, Quality and Vendor Branch 1, Division of Construction Inspection & Operational Programs, Office of New Reactors, within 30 days of the date of the letter transmitting this Notice of Violation. This reply should be clearly marked as a "Reply to a Notice of Violation" and should include (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid further violations; and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Since your response will be made available electronically for public inspection in the NRC Public Document Room or through the NRC Agencywide Documents Access and Management System (ADAMS), to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21, "Requirements for the Protection of Safeguards Information."

Dated at Rockville, Maryland, this 15th day of July 2009.

## BUSINESS

THURSDAY, JULY 16, 2009 • PAGE B6

# Nuclear opponents, SCE&G debate costs

Utility says there are no overruns in estimates it made to get OK for 2 new Jenkinsville units

By **CHUCK CRUMBO**  
ccrumbo@thestate.com

A review by state regulators of SCE&G's first quarterly report on the cost of the Jenkinsville nuclear project triggered debate Wednesday over whether the utility is facing hefty cost overruns.

While it appears in the report that SCE&G's costs for adding two reactor

units had climbed \$561.9 million to \$6.875 billion, the Office of Regulatory Staff on Wednesday attributed the higher figure to how the price was calculated.

Project opponents charge South Carolina Electric & Gas Co. low-balled the estimate when it sought approval for the project from the state Public Service Commission.

The estimate was based on using a five-year average of commodity costs, including interest on construction loans, according to the SCE&G report. The lower price is figured on a 10-year average, it added.

SEE **NUKE** PAGE B7

## NUKE

FROM PAGE B6

"This is not a cost overrun," said Eric Boomhower, a spokesman for the Columbia-based utility.

In its report, the utility said the cost could be as much as \$562 million over the initial estimate or \$172 million under.

Current interest rates are lower and when the cost of money is spread out over the life of the project, SCE&G's share of the project should be closer to its initial estimate of \$6.3 billion, regulators said.

The overall cost of the project, which SCE&G is sharing with state-operated Santee Cooper, is \$9.8 billion.

Opponents of the plant, though, said SCE&G has underestimated the project's cost.

"I take this report as a warning of greater problems this project is going to run into," said Tom Clements with Friends of the Earth. "It's affirmation that we are getting into unknown and very risky territory."

Dukes Scott, Regulatory Staff executive director, said "construction is progressing in accordance with the approved schedule and allowed 18-month milestone deviation."

SCE&G is required by state regulators to file quarterly reports on the project's progress.

In February, state regulators approved the power company's plans to build two reactor units. SCE&G now needs the OK from the federal Nuclear Regulatory Commission to proceed.

The first unit is scheduled to begin commercial operation sometime in 2016; the second unit in 2019.

[http://charlotte.bizjournals.com/charlotte/blog/power\\_city/2009/07/scana\\_feels\\_rating\\_bite\\_on\\_nuclear\\_plant.html](http://charlotte.bizjournals.com/charlotte/blog/power_city/2009/07/scana_feels_rating_bite_on_nuclear_plant.html)

## **SCANA feels rating bite on nuclear plant**

John Downey  
jdowney@bizjournals.com

Wednesday, July 15, 2009

Moody's Investor Services lowered SCANA Corp.'s bond rating this week and listed the outlook as negative because of the S.C. utility's joint ownership of a \$12 billion nuclear project under construction.

Moody's warned investors two weeks ago that it was likely to take a negative view on nuclear development by power companies. Some in the nuclear industry have taken issue with that policy. But Moody's stood by it when explaining its decision on SCANA.

"We remain concerned with the ... risks associated with a project of this magnitude for a company of this size," said Moody's Senior Vice President Jim Hempstead.

SCANA subsidiary S.C. Electric & Gas is expanding the V.C. Summer Nuclear Station with Santee Cooper. The power companies are adding two AP100 nuclear reactors at the existing nuclear plant.

### **Schedule slips**

Meanwhile, the S.C. Office of Regulatory Staff notes in a report filed Tuesday that several parts of the project have slipped off schedule. The staff points out that SCE&G says none of the delays are serious enough to affect the anticipated completion date for each unit.

"SCE&G indicates that this is a result of the creation of the first fully integrated project schedule by its contractors and is not a trend," the staff writes. "If these changes do indicate a pattern, then a trend of this sort this early in the project is cause for concern."

Overall, the staff says, the project appears to be on budget and on time. SCE&G now estimates its share of the project may cost more than originally projected — \$6.8 billion rather than \$6.3 billion. But that is not the result of any cost overruns. The company updates its calculations of future prices and financing charges every quarter, and those new calculations account for the higher costs.

### **Cost recovery concerns**

But uncertainties surrounding nuclear construction are clearly having an impact in the capital markets. And those issues are reflected in Moody's downgrade.

The rating agency reduced SCANA's senior unsecured debt rating one notch to Baa2 from Baa1.

The report cites a weakened balance sheet for SCANA and its subsidiary. It notes South Carolina's Baseload Act, passed in 2007, creates a supportive regulatory environment for construction of the nuclear plant. But it warns that it does not believe SCANA is guaranteed to recover all of its construction costs.

Two weeks ago, Fitch Ratings also downgraded SCANA to BBB+ from A-. Fitch also cited "financial pressure and increased business risk from SCE&G's plans to construct and finance two nuclear generating units."

June 25, 2009

**Business Wire**

**Fitch Downgrades SCANA & Subsidiaries' IDR to BBB+**

NEW YORK--(BUSINESS WIRE)--Fitch Ratings has downgraded the Issuer Default Ratings (IDRs) of SCANA Corp. (SCANA) and its subsidiaries South Carolina Electric & Gas Co. (SCE&G) and Public Service Co. of North Carolina (PSNC) to 'BBB+' from 'A-'. Fitch also downgraded the individual issue ratings one notch as shown in the list of rating actions at the end of this release. The short-term IDRs of SCANA, SCE&G and PSNC and commercial paper ratings of SCE&G, PSNC and South Carolina Fuel Company are affirmed at 'F2'. The Rating Outlook for each entity is Stable.

The downgrades are driven by the financial pressure and increased business risk from SCE&G's plans to construct and finance two nuclear generating units for service in 2016 and 2019, respectively, and a decline in credit quality measures over the past 18 months. SCE&G will own 55% of the two units at an estimated cost of \$6.3 billion. The nuclear investment, together with maintenance capital expenditures of approximately \$500 million annually, will more than double SCE&G's existing net investment in property plant and equipment. Expenditures are expected to peak in the years 2012 to 2014. Management expects to fund approximately 50% of the expenditures with new debt.

The credit impact of the incremental debt burden is softened by legislation in South Carolina, the Base Load Review Act (BLRA), which permits utilities to recover capital costs, including a return on equity, during construction. Other risk mitigants include an EPC contract that fixes a portion of the plant cost and a substantial equity commitment. Although the credit quality of subsidiary PSNC is not directly affected by the events at SCE&G, the weakening consolidated credit quality of SCANA accounts for the lower rating for PSNC.

Fitch has downgraded SCANA and its subsidiaries' ratings as follows:

**SCANA Corporation**

- IDR to 'BBB+' from 'A-';
- Senior Unsecured debt to 'BBB+' from 'A-'.

**SCE&G**

- IDR to 'BBB+' from 'A-';
- First Mortgage bonds to 'A' from 'A+';
- Senior Unsecured debt to 'A-' from 'A';
- Preferred Stock to 'BBB+' from 'A-'.

**PSNC**

- IDR to 'BBB+' from 'A-';
- Senior Unsecured debt to 'A-' from 'A'.

Fitch has affirmed SCANA and its subsidiaries' ratings as follows:

SCANA Corporation

--Short-term IDR at 'F2'.

SCE&G

--Short-term IDR at 'F2';

--Commercial Paper at 'F2'.

PSNC

--Short-term IDR at 'F2';

--Commercial Paper at 'F2'.

Fitch's rating definitions and the terms of use of such ratings are available on the agency's public site, [www.fitchratings.com](http://www.fitchratings.com). Published ratings, criteria and methodologies are available from this site, at all times. Fitch's code of conduct, confidentiality, conflicts of interest, affiliate firewall, compliance and other relevant policies and procedures are also available from the 'Code of Conduct' section of this site.

## **Contacts**

Fitch Ratings, New York

Robert Hornick, 212-908-0523

Jill Schmidt, 212-908-0644

or

Media Relations:

Francoise Alos, +33 1 44 29 91 22, Paris

Email: [francoise.alos@fitchratings.com](mailto:francoise.alos@fitchratings.com)

[http://www.businesswire.com/portal/site/google/?ndmViewId=news\\_view&newsId=20090625006060&newsLang=en](http://www.businesswire.com/portal/site/google/?ndmViewId=news_view&newsId=20090625006060&newsLang=en)

## Special Comment

# Moody's Global Infrastructure Finance

June 2009

### Table of Contents:

Summary	1
Overview	2
Nuclear's "bet-the-farm" risk	2
Historical rating trends are not good	3
Plant construction can pressure metrics	5
Precedents offer limited insight	5
Metrics show no meaningful improvement	7
Benefits of near-term recovery are limited	8
Public Power and Cooperatives are positioned with flexible cost recovery mechanisms but rate pressure is expected	8
Is size an issue?	9
Conclusion	9
Appendix A: Historical rating actions	11
Moody's Related Research	13

### Analyst Contacts:

New York 1.212.553.1653

**Jim Hempstead**  
Senior Vice President

**Dan Aschenbach**  
Senior Vice President

**A.J. Sabatelle**  
Senior Vice President

**Mike Haggarty**  
Vice President – Senior Credit Officer

**Laura Schumacher**  
Vice President – Senior Analyst

**William L. Hess**  
Team Managing Director

## New Nuclear Generation: Ratings Pressure Increasing

### Summary

- Moody's is considering taking a more negative view for those issuers seeking to build new nuclear power plants
- Rationale is premised on a material increase in business and operating risk
- Longer-term value proposition appears intact, and, once operating, nuclear plants are viewed favorably due to their economics and no-carbon emission footprint
- Historically, most nuclear-building utilities suffered ratings downgrades—and sometimes several—while building these facilities
- Political and policy conditions are spurring applications for new nuclear power generation for the first time in years
- Nevertheless, most utilities now seeking to build nuclear generation do not appear to be adjusting their financial policies, a credit negative
- First federal approvals are at least two years away, and economic, political and policy equations could easily change before then
- Progress continues slowly on Federal Loan Guarantees, which will provide a lower-cost source of funding but will only modestly mitigate increasing business and operating risk profile
- Partnerships, balance sheet strengthening, bolstering liquidity reserves and "back-to-basics" approaches to core operations could help would-be nuclear utilities maintain their ratings

This Special Comment is an addendum to our prior research reports associated with the credit implications of building new nuclear generation in the U.S. These prior reports, entitled "New Nuclear Generating Capacity: Potential Credit Implications for U.S. Investor Owned Utilities" published in May 2008 and "New Nuclear Generation in the United States: Keeping Options Open vs Addressing An Inevitable Necessity" published in October 2007 are referenced in the back under the section Moody's Related Research.



**Moody's Investors Service**